

3724

JUL-27-2004 TUE 12:21 PM ADAMS EVANS P.A.

FAX NO. 704 375 0729

P. 01/03

RECEIVED  
CENTRAL FAX CENTER

JUL 27 2004

**ADAMS EVANS P.A.**  
INTELLECTUAL PROPERTY ATTORNEYS

2180 Two Wachovia Center  
301 South Tryon Street  
Charlotte, North Carolina 28282-1991  
Telephone: (704) 375-9249  
Facsimile: (704) 375-0729

W. THAD ADAMS, III  
J. SCOTT EVANS  
STEPHEN S. ASHLEY, JR.  
MATTHEW J. TADENHEIM  
JONATHAN M. HINES  
BRANDON C. TREGO

PATENTS  
TRADEMARKS  
COPYRIGHTS  
UNFAIR COMPETITION  
TRADE SECRETS  
INTELLECTUAL LAW

OFFICIAL

FACSIMILE TRANSMISSION

TO: Examiner Jason D. Prone  
Art Unit 3724

DATE: July 27, 2004

FROM: W. Thad Adams, III  
Reg. No. 29,037

FACSIMILE NO: (703) 872-9306

RE: Our File No. 1384/6; U.S. Patent Application Serial No. 10/058,519 for  
"APPARATUS AND METHOD FOR BREAKING RAILS"

CONFIRMATION COPY  
TO FOLLOW:

YES \_\_\_\_\_ NO ☒

NUMBER OF PAGES: Cover + 2

MESSAGE: I have attached the proposed new Claim 30 for discussion. After your review,  
please call me at your convenience to discuss.

Also, please confirm receipt of this facsimile. Thank you.

If any problems in transmission occur, please contact Cecilia M. Sidcbottom, Legal Assistant.

CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION AND ANY ATTACHMENTS MAY CONTAIN CONFIDENTIAL INFORMATION BELONGING TO THE SENDER WHICH IS PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE AND/OR ATTORNEY WORK PRODUCT IMMUNITY. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE RECIPIENT NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF THE DOCUMENTS AT OUR EXPENSE.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/058,519 Confirmation No. 3724  
Applicant : PURSER  
Filed : 01/28/2002  
Title : APPARATUS AND METHOD FOR BREAKING RAILS  
TC/A.U. : 3724  
Examiner : Prone, J.  
Docket No. : 1384/6  
Customer No. : 23638

RECEIVED  
CENTRAL FAX CENTER

JUL 27 2004

OFFICIAL

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## PROPOSED CLAIM 30 FOR DISCUSSION

Claim 30 (new): A railroad rail breaking apparatus for being mounted on the arm of a vehicle and for breaking rails of the type having an integrally-formed wearing flange, rail web and base flange, and comprising:

(a) a first member having a first jaw on a first end thereof, and a mounting attachment on a second end remote from the first jaw for permitting the rail breaking apparatus to be mounted onto the vehicle arm, the first jaw including a first hardened rail breaking insert mounted thereon for engaging a first side of the wearing flange;

(b) a second member pivotally mounted for movement about a pivot axis, the second member including a second jaw having a second hardened rail breaking insert thereon for engaging a second side of the wearing flange opposite the first side of the

Appl. No. 10/058,519

wearing flange, the first and second inserts being shaped and adapted to receive only a single rail in an orientation for engagement of only the wearing flange of the single rail without engagement with the rail web and base flange;

(c) the second jaw being movable about the first pivot axis relative to the first jaw between a relatively open, wearing flange receiving position and a rail breaking position in which the first rail breaking insert of the first jaw and the second rail breaking insert of the second jaw hold the wearing flange in a wear breaking position by cooperation of the first and second members;

(d) power means mounted for cooperation with the first and second members for moving the first and second jaws relative to each other; and

(e) wherein as the first and second jaws move from the wearing flange receiving position to the wearing flange breaking position, the wearing flange, rail web and base flange of the rail is broken by a breaking force supplied by the power means only to the wearing flange.

W. Thad Adams, III  
Attorney for Applicant  
Reg. No. 29,037

W. Thad Adams, III  
ADAMS EVANS P.A.  
2180 Two Wachovia Center  
301 S. Tryon Street  
Charlotte, NC 28282  
Tel: (704) 375-9249  
Fax: (704) 375-0729  
E-mail: [wta@adamspat.com](mailto:wta@adamspat.com)